

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

<p>STATE OF OKLAHOMA,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>TYSON FOODS, INC., et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No. 05-cv-329-GKF(SAJ)</p>
---	---	---

**STATE OF OKLAHOMA'S MOTION TO STRIKE "THE CARGILL DEFENDANTS'
REPLY IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE OR EXTEND
RESPONSE DEADLINE " [DKT #1393]**

COMES NOW Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA (the "State"), and moves to strike "The Cargill Defendants' Reply in Support of Defendants' Motion to Strike or Extend Response Deadline" [DKT #1393] on the ground that it contains an improper and unfounded attack on the State's counsel in violation of LCvR 83.7 and 83.8 and this Court's admonition at the June 15, 2007 hearing. In support of this motion, the State states:

1. On December 5, 2007, Cargill Defendants filed "The Cargill Defendants' Reply In Support of Defendants' Motion to Strike or Extend Response " [DKT #1393] in which Cargill joined in the Defendants' Motion to Strike or Extend Response Deadline [DKT #1380], but elected to file a separate reply.

2. On page 3 of the filing, the Cargill Defendants state: "In a nutshell, the supposed health 'emergency' appears to have been fabricated by the State's contingent-fee outside counsel and their hired experts."

3. LCvR 83.7(b) states: [L]awyers appearing in this Court shall adhere to the following: . . . (14) Avoid disparaging personal remarks or acrimony toward opposing counsel"

4. LCvR 83.8(e) states: "Lawyers should treat each other . . . with courtesy and civility and conduct themselves in a professional manner at all times."

5. LCvR 83.8(k) states: "Effective advocacy does not require antagonistic or obnoxious behavior and members of the bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect."

6. At the June 15, 2007 hearing, this Court stated: "Two other housekeeping matters, I think I need to, after reading some of these briefs, read a provision in the local rules, specifically local Civil Rule 83.8 on standards of practice specifically subsection E states, 'Lawyers should treat each other, the opposing party, the Court and the members of the court staff with courtesy and civility and conduct themselves,' excuse, me 'in a professional manner at all times.' And that includes in the briefs. Apparently the standards, it's a little rough and tumble sometimes in Washington, D.C. Let me just respectfully suggest that maybe those standards should be modified somewhat for presentation in the briefs in the Northern District of Oklahoma. Point taken?" June 15, 2007 Transcript, 80:2-13.

7. The inclusion of this language amounts to an improper and unfounded attack on the State's counsel in violation of LCvR 83.7 and 83.8, as well as this Court's admonition at the June 15, 2007 hearing.

8. While the Cargill Defendants may not agree with the relief being sought by the State, there is no reason for the Cargill Defendants to make attacks on the State's counsel. It demeans the judicial system and the legal profession. Inasmuch as this is (at least) the second

time this has occurred, "The Cargill Defendants' Reply In Support of Defendants' Motion to Strike or Extend Response Deadline" [DKT #1393] should be stricken in its entirety.

Respectfully Submitted,

W.A. Drew Edmondson OBA # 2628
ATTORNEY GENERAL
Kelly H. Burch OBA #17067
J. Trevor Hammons OBA #20234
Tina Lynn Izadi OBA #17978
Daniel P. Lennington OBA #21577
ASSISTANT ATTORNEYS GENERAL
State of Oklahoma
313 N.E. 21st St.
Oklahoma City, OK 73105
(405) 521-3921

/s/ Richard T. Garren

M. David Riggs OBA #7583
Joseph P. Lennart OBA #5371
Richard T. Garren OBA #3253
Douglas A. Wilson OBA #13128
Sharon K. Weaver OBA #19010
Robert A. Nance OBA #6581
D. Sharon Gentry OBA #15641
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

Louis Werner Bullock OBA #1305
James Randall Miller OBA #6214
MILLER, KEFFER & BULLOCK
110 West Seventh Street Suite 707
Tulsa OK 74119
(918) 584-2001

David P. Page OBA #6852
BELL LEGAL GROUP
P. O. Box 1769
Tulsa, Ok 74101-1769
(918) 398-6800

Frederick C. Baker
(admitted *pro hac vice*)
Lee M. Heath
(admitted *pro hac vice*)
Elizabeth C. Ward
(admitted *pro hac vice*)
Elizabeth Claire Xidis
(admitted *pro hac vice*)
MOTLEY RICE, LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
(843) 216-9280

William H. Narwold
(admitted *pro hac vice*)
Ingrid L. Moll
(admitted *pro hac vice*)
MOTLEY RICE, LLC
20 Church Street, 17th Floor
Hartford, CT 06103
(860) 882-1676

Jonathan D. Orent
(admitted *pro hac vice*)
Michael G. Rousseau
(admitted *pro hac vice*)
Fidelma L. Fitzpatrick
(admitted *pro hac vice*)
MOTLEY RICE, LLC
321 South Main Street
Providence, RI 02940
(401) 457-7700

Attorneys for the State of Oklahoma

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2007, I electronically transmitted the above and foregoing pleading to the Clerk of the Court using the ECF System for filing and a transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson, Attorney General	fc_docket@oag.state.ok.us
Kelly H. Burch, Assistant Attorney General	kelly_burch@oag.state.ok.us
J. Trevor Hammons, Assistant Attorney General	trevor_hammons@oag.state.ok.us
Tina Lynn Izadi, Assistant Attorney General	tina_izadi@oag.state.ok.us

Daniel P. Lennington, Assistant Attorney General daniel.lennington@oag.ok.gov

M. David Riggs driggs@riggsabney.com
Joseph P. Lennart jlennart@riggsabney.com
Richard T. Garren rgarren@riggsabney.com
Douglas A. Wilson doug_wilson@riggsabney.com
Sharon K. Weaver sweaver@riggsabney.com
Robert A. Nance rnance@riggsabney.com
D. Sharon Gentry sgentry@riggsabney.com
RIGGS, ABNEY, NEAL, TURPEN, ORBISON & LEWIS

Louis Werner Bullock lbullock@bullock-blakemore.com
James Randall Miller rmiller@mkblaw.net
MILLER, KEFFER & BULLOCK

David P. Page dpage@edbelllaw.com
BELL LEGAL GROUP

Frederick C. Baker fbaker@motleyrice.com
Lee M. Heath lheath@motleyrice.com
Elizabeth C. Ward lward@motleyrice.com
Elizabeth Claire Xidis cxidis@motleyrice.com
William H. Narwold bnarwold@motleyrice.com
Ingrid L. Moll imoll@motleyrice.com
Jonathan D. Orent jorent@motleyrice.com
Michael G. Rousseau mrousseau@motleyrice.com
Fidelma L. Fitzpatrick ffitzpatrick@motleyrice.com
MOTLEY RICE, LLC
Counsel for Plaintiff

Robert P. Redemann rredemann@pmrlaw.net
Lawrence W. Zeringue lzingue@pmrlaw.net
David C. Senger dsenger@pmrlaw.net
PERRINE, MCGIVERN, REDEMANN, REID, BARRY & TAYLOR, P.L.L.C.

Robert E Sanders rsanders@youngwilliams.com
Edwin Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS P.A.
Counsel for Cal-Maine Farms, Inc and Cal-Maine Foods, Inc.

John H. Tucker jtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
Colin Hampton Tucker ctucker@rhodesokla.com
Leslie Jane Southerland lsoutherland@rhodesokla.com

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry Wayen West
THE WEST LAW FIRM

terry@thewestlawfirm.com

Delmar R. Ehrich
Bruce Jones
Dara D. Mann
Krisann C. Kleibacker Lee
Todd P. Walker
FAEGRE & BENSON, LLP

dehrich@faegre.com
bjones@faegre.com
dmann@faegre.com
kklee@faegre.com
twalker@faegre.com

Counsel for Cargill, Inc. & Cargill Turkey Production, LLC

James Martin Graves
Gary V Weeks
Paul E. Thompson, Jr
BASSETT LAW FIRM

jgraves@bassettlawfirm.com
gweeks@bassettlawfirm.com
pthompson@bassettlawfirm.com

George W. Owens
Randall E. Rose
OWENS LAW FIRM, P.C.

gwo@owenslawfirm.com
rer@owenslawfirm.com

Counsel for George's Inc. & George's Farms, Inc.

A. Scott McDaniel
Nicole Longwell
Philip Hixon
Craig A. Merkes
MCDANIEL, HIXON, LONGWELL & ACORD, PLLC

smcdaniel@mhla-law.com
nlongwell@mhla-law.com
phixon@mhla-law.com
cmerkes@mhla-law.com

Sherry P. Bartley
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC

sbartley@mwsgw.com

Counsel for Peterson Farms, Inc.

John Elrod
Vicki Bronson
P. Joshua Wisley
Bruce W. Freeman
D. Richard Funk
CONNER & WINTERS, LLP

jelrod@cwlaw.com
vbronson@cwlaw.com
jwisley@cwlaw.com
bfreeman@cwlaw.com
rfunk@cwlaw.com

Counsel for Simmons Foods, Inc.

Stephen L. Jantzen

sjantzen@ryanwhaley.com

Paula M. Buchwald
Patrick M. Ryan
RYAN, WHALEY, COLDIRON & SHANDY, P.C.

pbuchwald@ryanwhaley.com
pryan@ryanwhaley.com

Mark D. Hopson
Jay Thomas Jorgensen
Timothy K. Webster
Thomas C. Green
SIDLEY, AUSTIN, BROWN & WOOD LLP

mhopson@sidley.com
jjorgensen@sidley.com
twebster@sidley.com
tcgreen@sidley.com

Robert W. George
Michael R. Bond
Erin W. Thompson
KUTAK ROCK, LLP

robert.george@kutakrock.com
michael.bond@kutakrock.com
erin.thompson@kutakrock.com

Counsel for Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., & Cobb-Vantress, Inc.

R. Thomas Lay
KERR, IRVINE, RHODES & ABLES

rtl@kiralaw.com

Jennifer Stockton Griffin
David Gregory Brown
LATHROP & GAGE LC

jgriffin@lathropgage.com

Counsel for Willow Brook Foods, Inc.

Robin S Conrad
NATIONAL CHAMBER LITIGATION CENTER

rconrad@uschamber.com

Gary S Chilton
HOLLADAY, CHILTON AND DEGIUSTI, PLLC

gchilton@hcdattorneys.com

Counsel for US Chamber of Commerce and American Tort Reform Association

Also on this 6th day of December, 2007 I mailed a copy of the above and foregoing pleading to:

David Gregory Brown
Lathrop & Gage LC
314 E HIGH ST
JEFFERSON CITY, MO 65101

Thomas C Green
Sidley Austin Brown & Wood LLP
1501 K ST NW

WASHINGTON, DC 20005

Cary Silverman

Victor E Schwartz

Shook Hardy & Bacon LLP (Washington DC)

600 14TH ST NW STE 800

WASHINGTON, DC 20005-2004

C Miles Tolbert

Secretary of the Environment

State of Oklahoma

3800 NORTH CLASSEN

OKLAHOMA CITY, OK 73118

Gary V. Weeks

Bassett Law Firm

P. O. Box 3618

Fayetteville, AR 72702

/s/ Richard T. Garren